



BOARD OF HEALTH MEETING

August 25, 2015 – 6:30 PM

Rockport Town Hall Annex

Present: Board members Dr. Sydney Wedmore-Chair, Dr. Russell Sandfield, Dr. Sydney Jimenez, Health Agent Leslie Whelan, Food Inspector Laura Osmond, and Secretary/Clerk Marianne Peters. Also present were Jeffrey Kolterjahn (12 Sheehan Terrace), Attorney Kevin Kiely of Kiely and Ferrante, LLC, Jonathan Glick (both representing Sandy Bay Estates) Attorney Kevin Daly of Daly and Daly and Attorney Roy Gelineau of Gelineau and Kline (representing the children of and the estate of (respectively) the former owners The Lobster Pool Restaurant) and Tony Robbins, MD, MPA, Professor of Public Health from Tufts University School of Medicine.

6:30 PM: Meeting called to order.

Community Concerns: None.

Minutes of July 28, 2015 meeting: Dr. Wedmore moved to approve; Dr. Sandfield seconded and it was voted unanimously to approve.

Sandy Bay Estates - Housing Orders - Hearing

Discussion about the health code violations at several units in Sandy Bay Estates and ensuing fines for outstanding violations issued via Housing Order. Former manager of the property, Jonathan Glick, has taken over the matter for owner Marvin Glick. Attorney Kevin Kiely has been retained by property management to assist with the matter and stated that although slow moving, remediation in a good-faith effort is underway by recently hired contractor GAM Construction. Attorney Kiely asked the Board if their 'non-compliance' status be put on hold until next month's Board of Health meeting to be revisited. Dr. Wedmore, Dr. Jimenez, and Dr. Sandfield noted the lengthy history of violations, that serious action is now needed, and reminded Mr. Glick and Attorney Kiely that a multitude of former managers, custodians, and maintenance people over the years have been contacted, made aware, and ordered to remediate violations and that often, remediation does not take place. Dr. Wedmore pointed out Sandy Bay Estates management's history of putting off meetings and stated that this cannot happen with the current situation. Dr. Wedmore instructed Health Agent Leslie Whelan to continue tallying the fines for the violations, that nothing will 'stop the clock' for the fines that have been assessed, and that all of the violations must be remediated. Dr. Sandfield stated that he would like to see a program/process in place where these types of violations and problems will not happen again. Mr. Glick told the Board that now that he is managing the property, the work is steadily progressing in the right direction and that the tenants have been asked to contact him first so that he's aware of issues and can respond timely. Attorney Kiely that the Board of Health to copy

him on all complaints that the Board of Health might receive regarding the property so that they are aware of the problems and can address them properly. Mr. Glick and Attorney Kiely asked for patience and time in remediating the violations and stated they will work with Health Agent Leslie Whelan weekly by touching base. All fees will continue to be compounded per the Board. Dr. Wedmore stated that Attorney Kiely must provide weekly reports to the Health Agent.

12 Sheehan Terrace – Hearing to Dispute Fines:

Property owner Jeffrey Kolterjahn respectfully asked the Board to reconsider/waive the \$40,900 in housing violation fines recently assessed due to a broken handrail and broken window in an apartment. Mr. Kolterjahn explained that the tenants (now gone), after contacting the Board of Health to report violations, would not let him in to work/remediate the issues. He stated that several attempts were made to enter the apartment while occupied and that it was in disarray and ‘trashed’ by the tenants making it difficult to properly fix in a timely fashion as mandated by the Board of Health Order. Mr. Kolterjahn stated that he had previously had a clarification question for Health Agent Leslie Whelan on a double-paned window repair, and due to conflicting schedules and other issues, had not been able to remediate the window in an expeditious manner. Mr. Kolterjahn stated that all violations have been addressed and that the property now looks great. Dr. Sandfield inquired if the Board of Health has the power to lessen/levy the fines and if the property conforms now; Health Agent responded affirmatively to both. After consideration, the Board agreed to waive the fines and assessed Mr. Kolterjahn \$100 for the reinspection fee as a result of the Health Agent going out to the property multiple times.

Trash Barrels Outside of Food Establishments Offering Take-Out:

Continued discussion from last month about 30-gallon minimum trash barrel regulation for take-out food establishments. Laura Osmond, Food Inspector, stated that she arranged a meeting with DPW Director Joe Parisi and the Rockport Beautification Committee to see if they can work together on a sensible map of Town barrel placement in conjunction with the respective food establishments ordered by Board of Health to provide their own barrels. Ms. Osmond stated that revocation of a food establishment’s license (for non-compliance with the trash barrel regulations) is not allowed under Massachusetts regulations and that any attempt to revoke an establishment’s license for non-compliance may result in larger problems. She stated that she is working with the establishment owners and asked if the Board members if (while she continues to meet with and work in tandem with the DPW, the Beautification Committee, and the food establishments to find a mutually beneficial, sensible, and aesthetically pleasing solution to the trash problem) she could hold off ordering suspensions for those few establishments that are in non-compliance. She explained that the reason for those that are in non-compliance is due more to *where* to place the barrel rather than the fact that they have to provide one; they do want to comply, but they would like to place them in a sensible area and not have both a Town barrel and their own barrel, for example, directly in front of their establishment; Dr. Sandfield agreed with Ms. Osmond. Dr. Wedmore reiterated that the DPW should assign Town barrels to the end of Bearskin Neck, T-Wharf, and Bradley Wharf. Ms. Osmond asked if the establishments can put their 30-gallon barrel on the inside of the establishment; the Board stated that they can. Ms. Osmond will ask DPW Director Joe Parisi to place a Town barrel at the bus stop (where disembarking riders often empty their bags and trash) and will continue to work with the DPW, the Beautification Committee, and the food establishments to resolve.

Lobster Pool Restaurant 329 Granite Street – Title 5 Inspection Review:

Attorneys Gelineau and Daly, representing the former owners of the Lobster Pool Restaurant, requested clarification on a Title 5 Inspection Report recently issued by D.F. Clark, Inc. whose findings determined that their septic system failed within the Title 5 regulations. The system had originally passed Title 5 regulations before the property was sold in March 2015 to new owners. The property originally had a 4,000-gallon tight tank (1974); at a later date, a leach pit was added to convert it to be used as a septic system under the 1978 code (approved by the BOH in 1986); the system was then classified as 'tight tank with a leach pit'. D.F. Clark, Inc. recently reported the system as a failure because a tight tank needing to be pumped more than four times annually falls under the 'failure' designation, which the restaurant has had to do. Dr. Jimenez asked the Health Agent if using the leach pit is more dangerous than a tight tank and if it's possible to now abandon the leach pit on the property; Health Agent Whelan responded affirmatively on both. Dr. Wedmore noted that the property is close to the ocean; Health Agent added that it's 110' from the top of a coastal bank. Dr. Wedmore and the Board agreed that it's principally a tight tank and that going forward, we should make it one that works as a tight tank. It was decided by the Board, after discussion about current Title 5 regulations, as well as for safety, that the leach pit will need to be abandoned and that the system will remain as a **tight tank only**, that it be classified as such, and that it must have proper pump-outs as often as necessary and that a high-water alarm be installed.

Agent Update:

Lane's Farm: Based on an inquiry to Health Agent Leslie Whelan as to whether Lane's Farm was running a day camp (and if so, was it approved/licensed), Agent stated that she determined that the activities fall under the category of a workshop rather than a camp and that the criteria of a camp have not been met. Health Agent stated that she's asked the operator to change the website to not say 'camp'.

Board Composition: Health Agent stated that a new-to-Town resident with a background in the health field has shown interest in perhaps joining the Board of Health as a member. The board discussed having the potential candidate attend the next Board of Health meeting.

Next Meeting Date:

Next meeting to be held on Tuesday, September 29, 2015. Agenda Prep meeting September 22nd @ 8:30 a.m.

Dr. Sandfield moved to adjourn; Dr. Wedmore seconded; approved unanimously.

8:10 P.M. Meeting Adjourned.